

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

915L0315

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1157** - 02/02/2005

Introduced by: Representatives Michels, Frost, Garnos, Gillespie, Rounds, Thompson, Vehle, and Weems and Senators Broderick, Abdallah, Koskan, McCracken, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for recovery of motor fuel theft.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 22-30A be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 The owner of a motor vehicle who has not paid for the motor fuel received is liable to the  
6 motor fuel retailer for the cost of the motor fuel. If notice of a service charge is conspicuously  
7 displayed on the premises when the motor fuel was received, the motor fuel retailer may impose  
8 a service charge not to exceed thirty dollars for any collection cost.

9 Section 2. That chapter 22-30A be amended by adding thereto a NEW SECTION to read  
10 as follows:

11 If a motor fuel retailer provides, in writing, the license plate number of any motor vehicle  
12 owner who failed to pay for the motor fuel received to any law enforcement officer, the law  
13 enforcement officer shall provide the motor vehicle owner's name and addresses, recorded  
14 pursuant to § 32-5-3, to the retailer. The written request for the vehicle owner information may



only be submitted by the registered owner or corporate officer of the motor fuel business. The owner or corporate officer shall enclose a self-addressed and stamped envelope with the written request. The format for the request shall be prescribed by the Department of Public Safety and include the following information:

- (1) The name and signature of the employee witnessing the theft;
- (2) The name and signature of the owner or corporate officer;
- (3) The address and telephone number of the owner or corporate officer;
- (4) License plate number of the motor vehicle; and
- (5) Reference to the applicable provisions of this Act.

The law enforcement officer shall respond, in writing, to the owner or corporate officer of the motor fuel business.

Section 3. That chapter 22-30A be amended by adding thereto a NEW SECTION to read as follows:

A motor fuel retailer may, within thirty days of the occurrence, demand payment from the motor vehicle owner for the motor fuel received by sending a notice by certified mail, return receipt requested. The notice shall be prescribed by the Department of Public Safety and include the following information:

- (1) The name, address, and license plate number of the motor vehicle owner;
- (2) Date the act occurred;
- (3) Type of motor fuel;
- (4) The unpaid dollar amount;
- (5) The service charge;
- (6) A citation of section 1 and 4 of this Act; and
- (7) The employee's and employer's signature.

1       Section 4. That chapter 22-30A be amended by adding thereto a NEW SECTION to read  
2 as follows:

3       The motor vehicle owner shall pay the motor fuel retailer the full amount due within thirty-  
4 three days after receiving notice demanding payment pursuant to section 3 of this Act. The  
5 motor vehicle owner may dispute the motor fuel retailer's claim by sending a notice by certified  
6 mail, return receipt requested, to the motor fuel retailer within the thirty-three day period. If the  
7 motor vehicle owner disputes or fails to pay the retailer's claim, the retailer may take the claim  
8 to court. The court may award the retailer the unpaid dollar amount for the motor fuel, the  
9 service charge, and reasonable court expenses. If the motor vehicle owner does not dispute the  
10 claim and fails to pay the claim within the thirty-three day period, the court may award the  
11 retailer the unpaid dollar amount for the motor fuel, the service charge, and reasonable court  
12 expenses.

13       Section 5. If a motor fuel retailer receives payment or a court award pursuant to this Act, the  
14 motor fuel retailer may not initiate or pursue a criminal action against the motor vehicle owner  
15 because of that loss.